

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEVEN MICK,)
vs. Plaintiff,) Case No.
vs.) Franklin County Circuit Court
JEFF MOLKENTIN and) Case No. 18AB-CC00255
C.R. ENGLAND, INC.,) **JURY TRIAL DEMANDED**
Defendants.)

NOTICE OF REMOVAL

Defendant C.R. England, Inc. (“C.R. England”), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice for the Removal of the above-entitled action to the United States District Court for the Eastern District of Missouri, Eastern Division, and for grounds therefore respectfully states:

A. Venue is proper in the United States District Court for the Eastern District of Missouri, Eastern Division

1. The above-entitled action, now pending in the Franklin County, Missouri Circuit Court, is a civil action at law brought by Plaintiff, above-named, against Defendants to recover damages.
2. The incident alleged by Plaintiff has arisen within the jurisdiction or boundaries of the United States District Court, Eastern District of Missouri, Eastern Division.
3. Pursuant to 28 U.S.C. §1446(a), venue lies in the United States District Court for the Eastern District of Missouri, Eastern Division, because Franklin County, Missouri is within the Eastern District of Missouri, Eastern Division.

B. The Procedural Requirements for Removal are Satisfied

4. The Complaint, which is attached hereto as part of Exhibit 1, was filed and served upon Defendant C.R. England through the Missouri Secretary of State on October 28, 2019 and, therefore, the time for filing this Notice of Removal under 28 U.S.C. § 1446 has not yet expired.

5. Written notice of the filing of this Notice of Removal is being given to Plaintiff and a copy of this Notice of Removal is being filed with the Franklin County Clerk of Court pursuant to 28 U.S.C. §1446(d).

6. A copy of all known process, pleadings and orders from the state case are attached collectively hereto as **Exhibit 1** in accordance with 28 U.S.C. §1446(a).

C. There is Diversity Among The Original Parties

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a) and removal to this Court is proper pursuant to 28 U.S.C. §1441(b)(2) because none of the Defendants are a citizen of this State, and there is complete diversity of citizenship between all parties.

8. Plaintiff Steven Mick was, at the time of the commencement of this action, and have been ever since, an individual domiciled in Texas County, Missouri and are citizens of Missouri.

9. Defendant Jeff Molkentin was at the time of the commencement of this action, and has been ever since, an individual domiciled in Wisconsin and a citizen of Wisconsin.

10. Defendant C.R. England, Inc. is a Utah corporation in good standing with its principal place of business in Salt Lake City, Utah, at both the time of the commencement of this action and at the time of this removal.

D. The Amount in Controversy Exceeds \$75,000

11. Upon information and belief, the matter and amount in controversy in this action, exclusive of interest and costs, exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00) as required by 28 U.S.C. §1332(a), in that Plaintiff in his Petition, has alleged that Defendants allegedly caused serious, permanent and painful injuries to Plaintiff Steven Mick, including lost quality of life and economic benefit. Upon information and belief, Plaintiff previously made a \$1,000,000 demand upon C.R. England.

E. Consent of Served Defendants

14. Defendant has no knowledge or notice that Defendant Jeff Molkentin has been served with process in this case at the time of this Notice of Removal. *See* Franklin County Docket Sheet, attached hereto as **Exhibit 2**.

15. 28 U.S.C. §1146(b)(2)(A) provides: “When a civil action is removed solely under section 1441(a), all defendants who have been properly **joined and served** must join in or consent to the removal of the action.” (emphasis added).

16. Because Defendant has no knowledge or information that Defendant Jeff Molkentin has been served with process in this case, Defendant Jeff Molkentin need not consent to this removal at this time.

WHEREFORE, Defendant C.R. England, Inc. prays that this Honorable Court enter an Order causing said Cause No. 18AB-CC00255 of the Franklin County, Missouri Circuit Court to be removed to this Court for further proceedings, and that this Court take jurisdiction herein, and make further orders as may be just and proper.

/s/ Kevin L. Fritz

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed electronically with the Clerk of Court on November 21, 2019, to be served by operation of the Court's electronic filing system upon: George H. Albers, Butler & Kemper Law, 2421 Corporate Centre Drive, Suite 101, Granite City, IL 62040, george@butleremperlaw.com; and Andrew H. Marty, Evan M. Bettag, Chassaniol & Marty, LLC, 5301 Veterans Memorial Parkway, Suite 201, St. Peters, MO 63376, andy@trialstl.com, evan@trialstl.com, Attorneys for Plaintiff.

/s/ Kevin L. Fritz